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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,621	09/22/2003	Alain Lamoureux		6563

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EXAMINER

JOHNSON III, HENRY M

ART UNIT	PAPER NUMBER
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3739

MAIL DATE	DELIVERY MODE
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09/07/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/665,621

Applicant(s)

LAMOUREUX, ALAIN

Examiner

Henry M. Johnson, III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

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DETAILED ACTION

An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

A listing of registered patent attorneys and agents is available on the USPTO Internet web site <http://www.uspto.gov> in the Site Index under "Attorney and Agent Roster." Applicants may also obtain a list of registered patent attorneys and agents located in their area by writing to the Mail Stop OED, Director of the U. S. Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313-1450.

The title and claims relate to a counterbalancing device while many of the claims relate to a tanning bed system.

Oath/Declaration

It does not state that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in 37 CFR 1.56.

Specifically, the oaths/declarations do not have the correct statement with respect to the duty to disclose. The correct statement should read, "I acknowledge the duty to disclose information which is material to patentability of this application in accordance with Title 37, Code of Federal Regulations Section 1.56."

Specification

The disclosure is objected to because of the following informalities:

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On page 3, second paragraph listing pistons should be lifting pistons.

Appropriate correction is required.

Claim Objections

Claims 23 and 24 are objected to as they raise the issue of utility as claimed. Filtering out the UV rays would render a tanning bed of little value, as at least the UV-A wavelength is required. It is common to filter out the more dangerous UV-B and UV-C wavelengths. Regarding claim 24, it is not clear if the switch is enabled as it is not clear if the interlock is based on detecting the cover in a closed position or actual detection of the physical filter in the correct position in relationship to the bulb.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the spring" in line 24. There is insufficient antecedent basis for this limitation in the claim.

Claims 6-24 fail to further limit the metes and bounds of the claims in that they are limitations of a structure used with the claimed device, but not integral too or necessary for the counterbalancing device to function.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 5 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 6,918,159 Choi. Choi teaches a hinge with a spring (biasing means) to provide torsion. The device discloses a bracket (Fig. 4B, # 13), which is interpreted as a first component and a support bracket (Fig. 4B, # 15), which is interpreted as a second component and a spring and pivot pin between the brackets. Each bracket has an end flange that accepts the pivot pin and ends of the spring (biasing means abutments) on an inner surface. The bracket portions move from positions at an angle to each other to a parallel position. Holes in the brackets couple the spring ends to the brackets and the brackets have additional holes for mounting other structures.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3, 6-12, 14-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,918,159 Choi as applied to claim 1 above and further in view of U.S. Patent 4,683,886 to Kramer et al. Choi is discussed above, but does not teach a plurality of coils. Kramer et al. disclose a counterbalancing system for a tanning bed using multiple torsion springs (Fig. 9). It would have been obvious to one skilled in the art to add additional springs a

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taught by Kramer et al. in the device. Choi to provide additional strength and balance the load over the hinge.

Regarding claims 6-8, the cited limitations are not integral to the counterbalancing device of the claim, however, as a system, Choi in view of Kramer et al. would render the claims obvious. Clearly the hinge of Kramer et al. couples the upper and lower portions of the tanning system to allow a pivoting motion. The base unit of Kramer et al. is interpreted as an integral part of the lower unit and thus is joined by the pivot pin (Fig. 9, # 98).

Regarding claims 9-12, the cited limitations are not integral to the counterbalancing device of the claim, however, as a system, Choi in view of Kramer et al. would render the claims obvious. The configuration of the attaching arms of the upper and lower units for coupling with a torsion spring counterbalancing device has not been disclosed as providing any unexpected or non-predictable results. If a person of ordinary skill can implement a predictable variation, §103 likely bars its patentability. For the same reason, if a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill. Sakraida and Anderson's-Black Rock are illustrative. A court must ask whether the improvement is more than the predictable use of prior art elements according to their established functions (KSR INTERNATIONAL CO. v. TELEFLEX INC. ET AL.; SUPREME COURT OF THE UNITED STATES, No. 04-1350; ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT; April 30, 2007).

Regarding claim 14, changes in the size and shape of prior art devices is a design consideration within the skill of the art. A change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966).

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A change in the size of a prior art device is a design consideration within the skill of the art. In re Rose, 220 F.2d 459, 105 USPQ 237 (CCPA 1955).

Regarding claims 15-22, the cited limitations are not integral to the counterbalancing device of the claim, however, as a system, Choi in view of Kramer et al. would render the claims obvious. Kramer et al. disclose a tanning bed with upper and lower portions with tanning bulbs within the portions. Providing access to the bulbs for replacement is clearly necessary as it is for a standard lighting fixture. Two such fixtures are in U.S. Patents 3,525,544 and 3,860,829 that teach a hinged door to allow access to the bulbs. Similarly, the use of supports to hold a door or cover in a fixed position is also well known and obvious. The lid to a chest freezer and the trunk and hood lids of a vehicle all use piston or latch mechanisms to maintain a position of the lids.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,918,159 Choi. The means for attaching a spring end are considered obvious to one of skill in the art. The end clearly need to be fastened to achieve torsion in the spring and a skilled artisan would select from a plethora of such attachments means, including U bolts, as the use of U bolts to fix a round shape to a flat surface yields a predictable result.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,918,159 Choi in view of U.S. Patent 4,683,886 to Kramer et al. as applied to claim 12 above and further in view of U.S. Patent 2,626,421 to Lyons. Choi and Kramer et al. are discussed above, but do not teach adjustability of the torsion. Lyons discloses a torsion spring hinge with that includes different positions for the spring end for adjusting the tension in the spring (Fig. 5). It would have been obvious to one skilled in the art to use the adjustability as taught by Lyons in the invention of Choi in view of Kramer et al. to accommodate the weight of the upper unit of a tanning bed.

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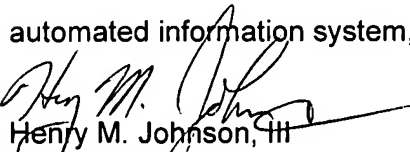
Claims 15-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,918,159 Choi in view of U.S. Patent 4,683,886 to Kramer et al. as applied to claim 12 above and further in view of U.S. Patent 2,626,421 to Lyons.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Henry M. Johnson, III whose telephone number is (571) 272-4768. The examiner can normally be reached on Monday through Friday from 6:00 AM to 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Henry M. Johnson, III
Primary Examiner
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